

Boston Edison Company

2. Electricity service represents a significant component of the MWRA's annual operating costs – over the last 12 months for which data is available (November, 2000 through October 2001), charges under Rate WR were be approximately \$10.4 million (about \$1.7 million for “delivery charges” and \$8.7 million for Standard Offer power) and the annual charges under the Interconnection and Facilities Support Agreement in 2000 were approximately \$5.3 million – and those operating costs are included in and affect the sewer rates paid in 43 communities in eastern Massachusetts.

3. The Electric Industry Restructuring Act of 1997 (“the Act”) mandated an orderly transition from the then current system where electric power was provided under a pervasive scheme for the regulation of power rates and supply planning, to a new system where power is supplied by competing third-party suppliers vying to sell power to consumers at rates determined by “market forces” and delivered on non-discriminatory terms by the former integrated electric utilities acting as “distribution companies.” To accomplish the purpose, the Act directed the Department to require electric companies to “accommodate retail access to generation services and choice of suppliers by retail customers,” G.L. c. 164, §§ 1A(a) and 1F;

4. The Act directed electric distribution companies, including BECo, to provide a standard transition generation service (so-called “Standard Offer Service”) to existing customers “who do not choose to purchase electricity from a non-affiliated generation company.” St.1997, c. 164, § 94 *adding* G.L. c. 164, § 1B(b).

5. The Act also directed electric distribution companies, including BECo, to provide Standard Offer Service at a “rate which, together with the transmission, distribution, and transition charges, produces for all retail customers including the facilities on Deer Island operated by the Massachusetts Water Resources Authority a rate reduction of at least 10 per

cent [increasing to 15 per cent, adjusted for inflation]... against the ...undiscounted rates ... in effect during August 1997...” *Id.*

6. In its 1998 review of the Company’s restructuring plan, the Department recognized that Rate WR recovered the allocated cost of providing service to the MWRA but, referencing “the unique load characteristics of MWRA’s Deer Island facility and the corresponding relatively low average cost of service,” rejected the unbundled Rate WR proposed by BECo and directed the Company to file, in its place, a revised Rate WR with a bundled distribution, transmission, and transition charge and “a separate standard offer charge.” *Boston Edison Company*, D.T.E. 96-23, pp. 36-38 (1998).

7. In connection with the merger between BEC Energy (then the corporate parent of BECo) and Commonwealth Energy System, the Department approved a rate plan proposed by BECo and the other retail subsidiaries of the two merging companies under which the proponents agreed “not to raise any of Boston Edison’s ... distribution rates for four years following the consummation of the merger, unless exogenous factors result in cost changes.” *Boston Edison Company/Cambridge Electric Light Company/Commonwealth Electric Company/Commonwealth Gas Company*, D.T.E. 99-19, p. 13 (1999).

8. While the Company has, in the past, proposed recognition of a “transition revenue shortfall” resulting from the bundled Rate WR, and the MWRA has complained that the Company’s proposed “shortfall” “creates uncertainty as to MWRA’s liability for transition charges if it seeks competitive power,” the Department has determined clearly that:

The selection of a competitive supplier would not change the transition and distribution charges under Rate WR because the WR rate is not tied to generation supply component of MWRA’s electricity costs. Therefore, MWRA’s concern regarding its liability for transition charges if it seeks competitive supply is misplaced.

Boston Edison Company, D.T.E. 99-107 (Phase II), p. 10 (2000).

9. On November 1, 2001, the MWRA, relying, in part, on the Department's past statements regarding the consequences of such a decision, discontinued Standard Offer Service from BECo and began to receive power at its Deer Island wastewater treatment facilities from a competitive supplier.

10. On December 3, 2001, BECo filed its 2001 reconciliation filing as well as proposed tariffs to implement new rates and charges for its retail customers, "to comply with statutory rate reduction requirements and the Department's rate design directives..." including, as it had in the preceding two years, a proposed new tariff Rate WR (M.D.T.E. No. 960) "designed to ensure that the MWRA, the sole member of the WR rate class, receives a minimum 15 percent, rate reduction against inflation-adjusted, pre-restructuring rates for so long as the MWRA receives Standard Offer Service."¹

11. On December 14, 2001 BECo filed with the Department another proposed Rate WR tariff (M.D.T.E. No. 974) to supercede and replace the tariff filed on December 3, 2001, that is designed to unbundle Rate WR into separate distribution, transmission and transition charges that, if approved, would result in a substantial and deleterious rate increase in the cost of electricity for the MWRA's Deer Island facilities.

12. The Company explained that its December 14, 2001 proposal "implements two changes ... reflecting the fact that the ... [MWRA] has ... elected to leave Standard Offer Service and has commenced receipt of generation supply from a competitive supplier."

¹ At the time of the December 3, 2001 filing, BECo was aware of the fact that the MWRA had earlier discontinued receiving Standard Offer Service. The Company and the MWRA had, however, earlier entered into a "Standstill Agreement" in an effort to facilitate then ongoing discussions regarding rate issues. Under the terms of that agreement, the Company agreed that, before December 14, 2001, it would not propose a new WR Rate tariff in a form similar to that which, in fact, was filed on December 14. In exchange, the MWRA agreed to pay, retroactive to November 1, 2001, any increased delivery charges that either were later agreed upon and approved by the Department or, in the event an agreement was not reached before December 13, were later determined by the Department to be appropriate "as a result of the Authority's choice of a competitive supplier of power..." See Attachment 1 to this motion.

13. In its December 14, 2001 filing, BECo explained that it had been engaged in and was willing to continue discussions with the MWRA and other interested parties “in an attempt to agree upon the appropriate parameters for and the level of Rate WR following the MWRA’s decision to leave Standard Offer Service.” The Company did, however, request that the proposed new tariff for Rate WR take effect, without suspension, on January 1, 2002, although it also indicated a willingness to stipulate that any increase in the WR rate beyond its December 3, 2001 filing would be “subject to refund” following investigation by the Department,

14. In the event that the Department does not reject the Company’s December 14, 2001 proposal on its own motion, the MWRA intends to urge the Department to reject the Company’s proposal to increase its Rate WR to reflect the election by the MWRA of a competitive source of power on a number of grounds, including but not limited to the following: (i) the Department has already determined that “[t]he selection of a competitive supplier would not change the transition and distribution charges under Rate WR because the WR rate is not tied to generation supply component of MWRA’s electricity costs” *Boston Edison Company*, D.T.E. 99-107 (Phase II), p. 10 (2000); (ii) the proposed increase is not consistent with the four year “rate freeze” proposed by BECo and adopted by the Department in *Boston Edison Company/Cambridge Electric Light Company/Commonwealth Electric Company/Commonwealth Gas Company*, D.T.E. 99-19 (1999); (iii) the proposed changes are contrary to the legislative direction to the Department to require electric companies to “accommodate retail access to generation services and choice of suppliers by retail customers,” G.L. c. 164, §§ 1A(a) and 1F; and (iv) the proposed changes are inconsistent with and would frustrate implementation of the Department’s announced goal of facilitating migration of retail customers to competitive

suppliers by “punishing” the MWRA for electing to receive competitive rather than standard offer generation service.

WHEREFORE, in light of the substantial questions that the MWRA has already raised concerning the propriety of the Company’s December 14, 2001 proposal and the fact that the terms of the October 31, 2001 “Standstill Agreement” protect the Company from any resulting harm (*see* Attachment 1 hereto), the MWRA moves that the Department initiate an investigation into the changes in Rate WR proposed by the Company on December 14, 2001 and, pending the outcome of that investigation, suspend the effective date of the proposed new WR rate that the Company filed on December 14, 2001.²

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² By this motion, the MWRA is not lodging any objection to the terms of the tariff filed for Rate WR on December 3, 2001 (Tariff No. M.D.T.E. No. 960) and, in the event that the Department does suspend the effective date of Tariff No. M.D.T.E. No. 974, does not object to the earlier proposal for Rate WR being allowed to go into effect.